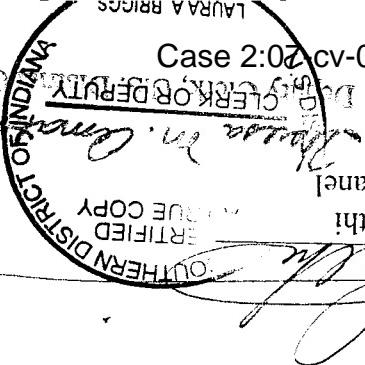


LAURA A BRIGGS

Case 2:07-cv-02659-LP Document 1 Filed 06/26/07 Page 1 of 19



FOR THE PANEL:

Jeffrey N. Luthi
Clerk of the Panel

MULTIDISTRICT LITIGATION
JUDICIAL PANEL ON
CLERK'S OFFICE

JUN 14 2007

Inasmuch as no objection is
pending at this time, the
stay is lifted.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The transmission of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Eastern District of Pennsylvania for the reasons stated in the order of February 15, 2007, and, with the consent of that court, assigned to the Honorable Louis H. Pollak.

It appears that the actions on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the Eastern District of Pennsylvania and assigned to Judge Pollak.

On February 15, 2007, the Panel transferred six civil actions to the United States District Court for the Eastern District of Pennsylvania for coordination or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. See 474 F.Supp.2d 1357 (J.P.M.L. 2007). Since that time, four additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Louis H. Pollak.

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CONDITIONAL TRANSFER ORDER (CTO-2)

Thomas Rybarczyk v. CertainTeed Corp., S.D. Indiana, C.A. No. 1:07-576
Court Chircichetti, et al. v. CertainTeed Corp., W.D. New York, C.A. No. 6:07-6210
Frank J. Crocco, et al. v. CertainTeed Corp., N.D. Ohio, C.A. No. 1:07-1373

U.S. CLERK'S OFFICE
LIABILITY LITIGATION
IN RE CERTAINTEED CORP. ROOFING SHINGLE PRODUCTS
FILED JUN 20 2007

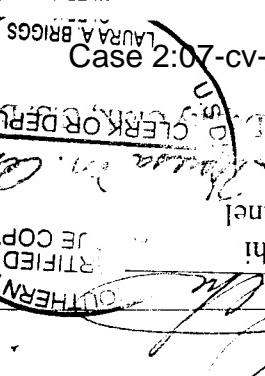
CLERK'S OFFICE
LIABILITY LITIGATION
IN RE CERTAINTEED CORP. ROOFING SHINGLE PRODUCTS
FILED MAY 29 2007

JUDICIAL PANEL ON
LIABILITY LITIGATION
MULTIDISTRICT LITIGATION

A CERTIFIED TRUE COPY

MULTIDISTRICT LITIGATION
JUDICIAL PANEL ON
CLERK'S OFFICE

JUN 14 2007



FOR THE PANEL:

Jeffrey A. Lithi
Clerk of the Panel

MULTIDISTRICT LITIGATION	JUDICIAL PANEL ON	CLERKS OFFICE
IN RE CERTIFIED TRUE COPY		
BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION		
ATTACHED		
MULTIDISTRICT LITIGATION		
FOR THE JUDICIAL PANEL ON		
CERTIFIED TRUE COPY		

Inasmuch as no objection is pending at this time, the stay is lifted.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The transmissional order of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

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CONDITIONAL TRANSFER ORDER (CTO-2)

Thomas Rybarczyk v. CertainTeed Corp., S.D. Indiana, C.A. No. 1:07-1376
Carl Chilcchierini, et al. v. CertainTeed Corp., W.D. New York, C.A. No. 6:07-6210
Frank J. Crocco, et al. v. CertainTeed Corp., N.D. Ohio, C.A. No. 1:07-1373

RE CERTIFIED CORP. ROOFING SHINGLE PRODUCTS
BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
FILED
JUN 20 2007
DOCKET NO. 1817
U.S. CLERK'S OFFICE
LIABILITY LITIGATION
INDIANAPOLIS, INDIANA

MULTIDISTRICT LITIGATION	JUDICIAL PANEL ON	CLERKS OFFICE
IN RE CERTIFIED TRUE COPY		
BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION		
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MULTIDISTRICT LITIGATION		
FOR THE JUDICIAL PANEL ON		
CERTIFIED TRUE COPY		

A CERTIFIED TRUE COPY

MAY 29 2007

MULTIDISTRICT LITIGATION
JUDICIAL PANEL ON

- roofing shingle products under various brand names, including without limitation, Horizon, Independence, Heartstead, Hallmark, Woodscape, CertainTeed, Sealdon, Custom Sealdon and War-Sealdon ("Shingles"). The Shingles, which are composed of asphalt, natural fibers, fiber and mineral granules have been marketed and warranted by Defendants as durable, and as offering long-lasting protection.
2. Defendant CertainTeed Corporation ("CertainTeed") manufactured and marketed Indiana who purchased CertainTeed shingles.
1. This is a consumer class action on behalf of all persons and entities in the state of Indiana who purchased CertainTeed shingles.

NATURE OF ACTION

Plaintiffs, on behalf of themselves and other similarly situated, by and through their undersigned counsel, files this Complaint, and in support thereof states and aver as follows:

CLASS ACTION COMPLAINT

Q7-2659

1 : 07-cv-0576-LJM-TAB

THOMAS RYBACZK,
CASE NO. 5/MAY-4 FA 4:10
COMPLAINT AND JURY DEMAND

CERTAINTEED CORPORATION and
DOES 1-50,

Defendant.

v.

LP

UNITED STATES DISTRICT COURT
DISTRICT OF INDIANA

3. Commercing in or around 1987, CertainTeed began manufacturing, warranting, advertising and selling defective Shingles to tens of thousands of consumers throughout Indiana. Defendant failed to adequately design, formulate, and test the Shingles before warranting.
4. Advertising and selling them as durable and suitable roofing products. Defendant advertised and sold to Plaintiffs and the Class Shingles that Defendants reasonably should have known were defectively designed, failed prematurely due to moisture invasion, cracking, curling, blistering, deteriorating, and otherwise not performing in accordance with the reasonable expectations of Plaintiffs and the Class that such products be durable and suitable for use as roofing products. As a result, Plaintiffs and the Class have experienced continuous and progressive damage to their property.
5. CertainTeed has consistently represented to consumers that its "ongoing philosophy" regarding its roofing products and even the basis for its name, CertainTeed, is "Quality made certain, satisfaction guaranteed". Defendant has not lived up to that promise.
6. Plaintiffs' Shingles have begun to fail, are failing and will fail before the time period advertised, marketed and guaranteed by CertainTeed.
7. As a result, Plaintiffs and the Class have suffered actual damages in that the roofs on their homes and other structures have and will continue to fail prematurely, resulting in damage to the underlying structure and requiring them to expend thousands of dollars to repair the damages associated with the incorporation of the Shingles into their homes or to prevent such damage from occurring. Damage caused by the defective shingles has included, but is not the damages from occurring.

Complaint And Jury Demand

12. Venue is proper in this Court because all Plaintiffs are citizens of this State.

JURISDICTION AND VENUE

- approximately \$2.3 billion in 2003.
- more than 40 manufacturing facilities throughout the United States. The company had sales of decking, railing, foundations and pipe. The company has approximately 7,000 employees and of building materials including roofing, siding, insulation, windows and patio doors, fence, business in Valley Forge, Pennsylvania. CertainTeed is a leading North American manufacturer defendant CertainTeed Corporation is a corporation with its principal place of Indiana, and purchased CertainTeed Shingles for installation on his home in approximately 1994.
- The first became aware of problems with his shingles in 2004.
10. Plaintiff and class representative Thomas Rybarczyk is a citizen of Munster, Indiana, and became aware of property damage by the effects.

PARTIES

- Plaintiffs and the members of the Class, Defendant has refused to effectively notify consumers of the effects, or repair the property damaged by the effects.
9. The Class Shingles suffer from a set of common defects, as described herein. Despite receiving a litany of complaints during the Class Period from consumers, such as reasonable means by which Class members can obtain relief from this Defendant.
- Class members could afford to seek recovery against Defendant on their own. This is especially true in light of the size and resources of the Defendant. A class action is, therefore, the only claims, and because most homeowners have only modest resources, it is unlikely that individual Class members can obtain relief from this Defendant.
8. Because of the relatively small size of the typical individual Class member's and sheetrock; and damage to walls and ceiling structural components.
- Limited to: damage to underlyimg felt; damage to structural roof components; damage to plaster and drywall; and damage to walls and ceiling structural components.

16. Members of the Class are so numerous that their individual joinder is impracticable. The proposed class contains hundreds and perhaps thousands of members. The precise number of Class members is unknown to Plaintiffs however Plaintiffs, upon information and belief, believe it is well in excess of 1,000. The true number of Class members is likely to be known by Defendant, however, and thus, may be notified of the pendingness of this action by first class mail, electronic mail, and by published notice.
17. There is a well-defined community of interest among members of the Class. The claims of the representative Plaintiffs are typical of the claims of the Class in that the

All individuals and entities that have owned, own, or acquired homes, residences, or other structures physically located in Indiana from 1987 through the present on which CertainTeed Shingles are or have been installed. CertainTeed Shingles are defined to include without limitation the following brand names: Horizon, Independence, Heartstead, Hallmark, Woodscape, CertainTeed, Sealedon, Custom Sealedon and War-Sealedon. Excluded from the Class are Defendants, any entity in which Defendants have a controlling interest or which has a controlling interest of Defendants, and Defendants, legal representatives, assigns and successors. Also excluded are the judge to whom this case is assigned and any member of the judge's immediate family.

18. This action has been brought and may properly be maintained as a class action pursuant to Federal Rule of Civil Procedure 23, and case law thereunder on behalf of Plaintiffs and all others similarly situated, with the Class defined as follows:

14. This court has jurisdiction pursuant to 28 USC. 1332. The parties are citizens of different states and the amount in controversy exceeds \$5,000,000.00.

13. Defendant CertainTeed conducts substantial business in Indiana, including the sale and distribution of Shingles in Indiana, and has sufficient contacts with Indiana or otherwise internationally avails itself of the laws and markets of Indiana so as to sustain this Court's jurisdiction over Defendant.

Complaint And Jury Demand

18. There are numerous questions of law and fact common to Plaintiffs and the Class, and those questions predominate over any questions that may affect individual Class members, and include the following:
- a) whether the Shingles are defective in that they are subject to moisture penetration and cracking, prematurely fail, and are not suitable for use as an exterior roofing product for the length of time advertised, marketed and warranted;
- b) whether Defendant should have known of the defective nature of the Shingles;
- c) whether Defendant owed a duty to Plaintiffs and the Class to exercise reasonable and ordinary care in the formulation, testing, design, manufacturing and marketing of the Shingles;
- d) whether Defendant breached its duty to Plaintiffs and the Class by designing, manufacturing, advertising and selling to Plaintiffs and the Class defective Shingles and by failing promptly to remove the Shingles from the marketplace or take other appropriate remedial action;
- representative Plaintiffs, like all Class members, own homes, residences, or other structures on which defective Shingles manufactured by Defendant have been installed. Those Shingles have failed, and will continue to fail, prematurely. The representative Plaintiffs, like all Class members, have been damaged by Defendant's conduct in that they have suffered damages as a result of the incorporation of the defective Shingles into their homes or structures. Furthermore, the factual bases of Defendant's conduct are common to all Class members and represent a common thread of negligent conduct resulting in injury to all members of the Class.
18. There are numerous questions of law and fact common to Plaintiffs and the Class, and those questions predominate over any questions that may affect individual Class members, and include the following:
- a) whether the Shingles are defective in that they are subject to moisture penetration and cracking, prematurely fail, and are not suitable for use as an exterior roofing product for the length of time advertised, marketed and warranted;
- b) whether Defendant should have known of the defective nature of the Shingles;
- c) whether Defendant owed a duty to Plaintiffs and the Class to exercise reasonable and ordinary care in the formulation, testing, design, manufacture and marketing of the Shingles;
- d) whether Defendant breached its duty to Plaintiffs and the Class by designing, manufacturing, advertising and selling to Plaintiffs and the Class defective Shingles and by failing promptly to remove the Shingles from the marketplace or take other appropriate remedial action;

- (e) whether the Shingles fail to perform in accordance with the reasonable expectations of ordinary consumers;

(f) whether the benefits of the design of the Shingles do not outweigh the risk of their failure;

(g) whether the Shingles fail to perform as advertised and warranted;

(h) whether Plaintiff and the Class are entitled to compensatory damages, and the amount of such damages;

i) whether Defendant should be declared financially responsible for notifying all Class members of their defective Shingles and for all damages associated with the incorporation of such Shingles into Class members' homes, residences and other structures.

19. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs have retained counsel with substantial experience in prosecuting statewide, multistate and national consumer class actions, actions involving defective products, and, specifically, actions involving defective construction materials. Plaintiffs and their counsel are committed to prosecuting this action vigorously on behalf of the Class they represent, and have the financial resources to do so. Neither Plaintiffs nor their counsel have any interests adverse to those of the Class.

20. Plaintiffs and the members of the Class have all suffered and will continue to suffer harm and damages as a result of Defendant's conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, the vast majority of the Class members likely would find the cost of litigating their claims to be prohibitive, and would have no effective remedy at law. Because of the relatively small

- inherently flawed in their design and/or manufacture.
23. Defendant had a duty to disclose that its Shingles were defective, unreliable and complainant.
- Plaintiffs had no reasonable way to discover this defect until shortly before Plaintiffs filed this knowledge that the CertainTeed Shingles they purchased were defective and unreliable.
22. Until shortly before Plaintiffs filed the original complaint, Plaintiffs had no from the public the truth concerning their product.
- Structures they were purchased to protect. Through such acts Defendant was able to conceal would deteriorate in less than half their expected lifetime, leading to damage to the very concealment including to disclose that its Shingles were effectively manufactured and the Shingles as dependable products that would last for decades. Defendant's acts of fraudulent Plaintiff and the general public that their shingles were defective, while continually marketing acts of fraudulent concealment, which include Defendant's intentional concealment from Plaintiff is estopped from relying on any statutes of limitation by virtue of its
21. Defendant is estopped from relying on any statutes of limitation by virtue of its efficiency of adjudication.

ESTOPPEL FROM PLEADING THE STATUTE OF LIMITATIONS

superior to multiple individual actions or piecemeal litigation in that class treatment would conserve the resources of the courts and the litigants, and will promote consistency and damages without remedy. Class treatment of common questions of law and fact would also be equal or exceed any recovery. Absent a class action, Class members will continue to incur afford to seek legal redress for Defendant's conduct. Further, the cost of litigation could well size of the individual Class member's claims, it is likely that only a few Class members could

- Class, for establishment of a common fund, plus attorney's fees, interest and costs.
- judgment against Defendant for compensatory damages for themselves and each member of the judgment on behalf of themselves and all others similarly situated, demand
29. Plaintiffs on behalf of themselves and all others similarly situated, demand property damage.
- Class to incur expenses repairing and/or replacing their roofs as well as the resultant, progressive moisture penetration. These failures have caused and will continue to cause Plaintiffs and the other structures an exterior roofing product that is defective and that fails prematurely due to
- Class have suffered actual damages in that they have purchased and installed on their homes and as a direct and proximate cause of Defendant's negligence, Plaintiffs and the
28. As a direct and proximate cause of Defendant's negligence, Plaintiffs and the
- fail prematurely, were not suitable for use as an exterior roofing product, and otherwise were not as warranted and represented by Defendant.
27. Defendant knew or should have known that the Shingles were defective, would take other appropriate remedial action.
- will fail prematurely, and by failing to promptly remove the Shingles from the marketplace or to manufacture, advertising and selling to Plaintiffs and the Class a product that is defective and ordinary care in the formulation, testing, design, manufacture, and marketing of the Shingles.
26. Defendant breached its duty to Plaintiffs and the Class by designing,
25. Defendant had a duty to Plaintiffs and the Class to exercise reasonable and foregoing paragraphs of this Complaint as if set forth fully herein.
24. Plaintiffs hereby incorporate by reference the allegations contained in the (Negligence)

FIRST CAUSE OF ACTION

1 through 45 of this Complaint.
 37. Plaintiffs incorporate by reference each of the allegations contained in Paragraphs

(Breach of Express Warranty)

THIRD CAUSE OF ACTION

Class, for the establishment of the common fund, plus attorney's fees, interest and costs.
 Judgment against Defendant for compensatory damages for themselves and each member of the
 36. Plaintiffs on behalf of themselves and all others similarly situated, demand
 judgment against Defendant is strictly liable to Plaintiffs and the Class.
 35. By reason of the foregoing, Defendant is strictly liable to Plaintiffs and the Class.

the Shingles do not outweigh the risk of their failure.
 expectations of Plaintiffs, the Class, and ordinary consumers, and the benefits of the design of

34. Defendant's Shingles fail to perform in accordance with the reasonable
 continue to cause property damage to Plaintiffs and the Class.

33. The Shingles installed on Plaintiffs, and the Class Members' property were and
 are defective and unfit for their intended use. The use of the Shingles has caused and will

32. The Shingles were expected to and did reach Plaintiffs and the Class without
 substantial change to the condition in which they were manufactured and sold by Defendant.

31. At all relevant times, Defendant was engaged in the business of manufacturing the
 Shingles which are the subject of this action.

30. Plaintiffs incorporate by reference each of the allegations contained in Paragraphs
 1 through 38 of this Complaint.

(Strict Products Liability)

SECOND CAUSE OF ACTION

38. Defendant marketed and sold its Shingles into the stream of commerce with the intent that the Shingles would be purchased by Plaintiffs and members of the Class.
39. Defendant expressly warranted that its Shingles are permanent, impact resistant, and would maintain their structural integrity through its written warranties regarding the durability of, and the quality of, the Shingles created express warranties which became part of the basis of the bargain Plaintiffs and members of the Class entered into when they purchased the Shingles.
40. Defendant expressly warranted that the structural integrity of the Shingles purchased by Plaintiff and Class members would last as long as 30 years.
41. Defendant breached its express warranties to Plaintiffs and the Class in that Defendant's Shingles are neither permanent nor impact resistant and did not, and do not, maintain their structural integrity and perform as promised. Defendant's Shingles crack, split, curl, discolor, delaminate and deteriorate prematurely, and they otherwise do not perform as warranted by Defendant, and they have caused and/or are causing damage to the underlying roof elements, structures and/or interiors of Plaintiffs' and Class members' homes, residences and structures.
42. Defendant's warranties fail of their essential purpose because it purports to warrant that the Shingles will be free from structural breakdown for as much as 30 years when, in fact, Defendant's Shingles fail far short of the applicable warranty period.
43. Moreover, because the warranties limit Plaintiffs' and Class members' recovery to replacement of the Shingles piece by piece, with replacement labor not included, Defendants' waranties are woefully inadequate to repair and replace failed roofing, let alone any damage suffered to the underlying structure due to the inadequate protection provided by the CertainTeed

- quality and fit for the use for which it was intended. Implicatedly warranted to Plaintiffs, and to Plaintiffs' agents, that the product was of merchantable CertainTeed Shingles, and prior to the time it was purchased by Plaintiffs, and Defendant CertainTeed Shingles, and/or supplied Defendant manufactured and/or supplied at all times mentioned herein, Defendant manufactured and/or supplied

48. Plaintiffs incorporate by reference each of the allegations contained in Paragraphs 1 through 56 of this Complaint.

(Against All Defendants for Breach of Implied Warranty)

FOURTH CAUSE OF ACTION

- Class, for the establishment of the common fund, plus attorneys' fees, interest and costs. Judgment against Defendant for compensatory damages for themselves and each member of the judgment against Defendant for compensatory damages for themselves and each member of the Class, for the establishment of the common fund, plus attorneys' fees, interest and costs.
47. Plaintiffs on behalf of themselves and all others similarly situated, demand and/or interiors of Plaintiffs', and Class members' homes and structures. is required to prevent on-going and future damage to the underlying roof elements, structures and the Class to incur significant expense in repairing and/or replacing their roofs. Replacement prematurely due to moisture penetration. This failure has required and/or is requiring structures an exterior roofing product that is defective and that has failed or is failing and the Class have suffered actual damages in that they purchased and installed on their homes and other structures an exterior roofing product that is defective and that has failed or is failing.
46. As a result of Defendant's breach of its express warranties, Plaintiffs and the Class have suffered actual damages in that they purchased and installed on their homes and other structures an exterior roofing product that is defective and that has failed or is failing.
45. Defendant has denied and/or failed to pay in full the warranty claims.

44. The limitations on remedies and the exclusions in Defendant's warranties are unconscionable and unenforceable.

Shingles. The remedies available in Defendant's warranties are limited to such an extent that they do not provide a minimum adequate remedy.

- Plaintiffs' class are entitled to receive equitable relief in such form as the Court may deem appropriate to correct or prevent such misconduct and remedy their injuries (including but not 57. As a result of these statutory violations of law, Plaintiffs and the members of the Plaintiffs' class are entitled to receive equitable relief in such form as the Court may deem
- of being induced thereby to purchase CertainTeed Shingles.
- Violations, including misrepresentations and deceptions, described in this Complaint as a result 56. Plaintiffs and members of the class have been injured as a result of the statutory
- § 24-5-1 et seq., including Indiana Code § 24-5-3(a)(1)-(2).
55. The conduct described in this Complaint constitutes a violation of Indiana Code
- 1 through 62 of this Complaint.
54. Plaintiffs incorporate by reference each of the allegations contained in Paragraphs
- (Against All Defendants for Violation of Indiana Deceptive Trade Practices Statutes)

FIFTH CAUSE OF ACTION

- suffered and will continue to suffer loss as alleged herein in an amount to be determined at trial.
53. As a direct and proximate result of the breach of said warranties, Plaintiffs aforsaid product, notice was duly given to Defendants of the breach of said warranty.
52. After Plaintiffs were made aware of Plaintiffs' damages as a result of the
- damages as herein alleged.
51. The Product was unfit for its intended use and it was not of merchantable quality, as warranted by Defendant in that it had propensities to break down and fail to perform and protect when put to its intended use. The aforsaid product did cause Plaintiffs to sustain
- in using the aforsaid product.
50. Plaintiffs and Plaintiffs' agents relied on the skill and judgment of the Defendant

- Plaintiffs sustained damages in an amount to be determined at trial.
63. As a result of the concealment or suppression of the facts set forth above, have purchased CertainTeed Shingles.
- above, and had he been aware of said facts, he would not have acted as he did, that is, would not herein alleged.
62. At all times mentioned herein, Plaintiffs were not aware of the facts set forth herein alleged.
61. At all times mentioned herein, Defendant intentionally, willfully, and maliciously concealed or suppressed the facts set forth above from Plaintiffs and with the intent to defraud as herein alleged.
60. At all times mentioned herein, Defendant had the duty and obligation to disclose to Plaintiffs the true facts concerning the CertainTeed Shingles, that is that CertainTeed Shingles were defective, would prematurely fail, and otherwise were not as warranted and represented by Plaintiff, the Class and the general public prior to the date Plaintiffs purchased the CertainTeed Shingles while concealing the material described herein including the following:
59. At all times mentioned herein, Defendant made the affirmative representations as set forth above to Plaintiff and unreliable. Defendant made the affirmative representations as set forth above to Plaintiff the true facts concerning the CertainTeed Shingles; that is that said product was defective and unreliable. Defendant had the duty and obligation to disclose to Plaintiff the true facts concerning the CertainTeed Shingles; that is that CertainTeed Shingles while concealing the material described herein including the following:
58. Plaintiffs incorporate by reference each of the allegations contained in Paragraphs 1 through 66 of this Complaint.
- (Against All Defendants for Fraudulent Concealment)

SIXTH CAUSE OF ACTION

as costs and attorney's fees pursuant to Indiana Code § 24-05-0.5-4(b). limited to, injunctive relief equitable restitution, accounting, and other relief), damages, as well

- compensatory damages in an amount to be proven at trial.
68. As a result of the foregoing, Plaintiffs and the Class members are entitled to Shingles.
67. Defendant failed to perform as required by the express warranty and breached said contracts and agreements because it provided Plaintiffs and the Class with Shingles that are defective and unfit for their intended use and failed to appropriately repair and/or replace the Shingles.
66. Plaintiffs and the Class satisfied their obligations under these contracts, warranties and agreements.
65. Plaintiffs and the Class members that were of merchantable quality and fit for the use for which they were intended. Defendant further obligated pursuant to the express warranty to repair and/or replace any defects or problems with the Shingles that Plaintiff and the Class members experienced. In exchange for these duties and obligations, Defendant received payment of the purchase price for these Shingles from Plaintiffs and the Class.
64. Plaintiffs incorporate by reference each of the allegations contained in Paragraphs 1 through 72 of this Complaint.

(Breach of Contract)

SEVENTH CAUSE OF ACTION

amount to be determined at trial;

3. For damages under statutory and common law as alleged in this Complaint, in an

acts, and practices described in this Complaint;

2. Equitable and injunctive relief enjoining Defendant from pursuing the policies, Representatives, and appointing the undersigned counsel of record as Class counsel,

1. For an Order certifying the Plaintiffs Class, appointing Plaintiffs as Class

themselves and all others similarly situated:

WHEREFORE, Plaintiff requests of this Court the following relief, on behalf of

PRAVYER FOR RELIEF

not be allowed to obtain this benefit.

the Class members were injured. Defendant have been unjustly enriched, and in equity, should

73. As a proximate consequence of Defendant's improper conduct, the Plaintiffs and

been unjustly enriched in a manner which warrants restitution.

72. Defendant, by the deliberate and fraudulent conduct complained of herein, has

and the Class.

71. Defendant's acceptance and retention of these benefits under the circumstances

make it inequitable for Defendant to retain the benefit without payment of value to the Plaintiff

70. Substantial benefits have been conferred on Defendant by Plaintiffs and the Class

and Defendant have appreciated these benefits.

1 through 77 of this Complaint.

69. Plaintiffs incorporate by reference each of the allegations contained in Paragraphs

(Unjust Enrichment)

EIGHT CAUSE OF ACTION

Complaint And Jury Demand

16

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 Yvonne M. Flaherty, Atty. No. 267600
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 10585 N. Meridian Street, Suite 205
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 Facsimile: 317-818-3111

HODDE DASSOW & DEETS, LLC

Dated: May 2, 2007

Jury on all issues so triable.

Plaintiffs, on behalf of themselves and the members of the Class hereby demand trial by

JURY DEMAND

6. Such other and further relief as the Court deems just and proper.

With this action, including reasonable attorneys' fees; and

5. The costs and disbursements incurred by Plaintiffs and their counsel in connection

4. Pre-judgment and post-judgment interest at the maximum rate allowable at law;

Complaint And Jury Demand

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Philadelphia, PA 19106-3697

510 Walnut Street - Suite 500

LEVIN, FISBEIN & BERMAN

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Jason T. Baker

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Facsimile: 1-800-420-2000
Case#: 1-U-CV-005/6-LJM-1AB Doc #: 10 RYBARCZYK V. CERTAINTEED CORPORATION et al